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LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			ALVAREZ, RAQUEL	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/785,095  
Filing Date: February 16, 2001  
Appellant(s): FEINBERG, PAUL H.

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Bruno Polito  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10/17/2006 appealing from the Office action  
mailed 9/26/2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

WO 98/36366 SKILLEN 08-1998

6,026,375 HALL et al. 02-2000

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skillen (WO 98/36366 hereinafter Skillen) in view of Hall (6,026,375 hereinafter Hall).

With respect to claims 1-4, 6, 9, 11, 12, 18, 20, 27, 32, 41-47 Skillen teaches a method of providing information to a device (Abstract). Receiving a request for information from said device (page 7, lines 13-15); receiving other information indicative of said device (page 8, lines 23-33); processing the requested information and other information with at least one processor as to select audio-visual content based on said request and regardless of said other information and to select information based on the other information (i.e. the requested information is processed regardless of the other information and the system displays both content to the user (page 10, lines 3-27); sending response information to said client device in response to said request, said response information comprising both said other-oriented information and said content (page 10, lines 23-27).

With respect to the newly added feature, Hall teaches the user receiving a first message about a local facility that can complete the order (col. 9, lines 19-32) and a subsequent message pertaining the current proximity of the local facility based on the updated time of arrival taking into account the user's current location in addition to the current user's speed and traveled routes (col. 10, lines 6-12). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included in the system of Skillen the teachings of Hall of a first message of a vendor and a subsequent message of the vendor indicating a change in proximity of the user because such a modification would allow the user to know exactly how far and how close the user is getting to the local facility.

Claims 5 and 48 further recite that the web page comprises an on-line magazine. Official notice is taken that on-line magazines are old and well known to provide periodical information. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the information on an on-line magazine in order to obtain the above mentioned advantage.

With respect to claims 7-8, 19, Skillen further teaches that the other information relates to advertisements hyperlinked to another web page of a plurality of different entities (page 8, lines 4-22).

With respect to claim 13, with respect to customizing the information based on the time of day. Official notice is taken that it is old and well known in advertisements to provide incentives or discounts based on the date or time of the day. For example, advertising coats and sweaters during winter months. It would have been obvious for a person of ordinary skill in the art at the time of Applicant's invention to have included taking into account the time of day because such a modification would further focus the information received by the user.

With respect to claims 14-15, Skillen further teaches that the information selected is based on demographic information received before said request was received (profile database 48).

With respect to claim 16, Hall further teaches selecting geographically-oriented information for said second client that is different from the geographically-oriented information for said other processor (i.e. based on the location of another client the information will change)(col. 6, lines 22-43). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included selecting geographically-oriented information for said second client that is different from the geographically-oriented information for said other processor because such a modification would better customize the output.

Claim 21 further recite storing the audio-visual content and the geographically-oriented information on different servers. It would have been obvious to a person of ordinary skill in the art in the computers related arts to store different types of information on two different servers because such a modification would allow for information to be retrieved from different sources.

Claims 22-24 the combination of Skillen and Hall further teach that the geographically-oriented information is associated with an entity, and further comprising the step of said entity being notified that said geographically-oriented information has

been sent to said client (i.e. the seller is notified that the buyer has been sent to the seller's website, thereby exacting a toll for bringing buyer and seller together (page 11, lines 13-18).

With respect to claim 25, The combination of Skillen and Hall do not specifically teach the entity/seller sending a coupon. Official notice is taken that is old and well known in marketing/advertisements to send a coupon to a potential customer to motivate the customer to make a purchase. It would have been obvious ton a person of ordinary skill in the art at the time of Applicant's invention to have included the seller sending a coupon in order to obtain the above mentioned advantage.

With respect to claim 26, Hall further teaches that the information relates to the inventory of the entity or stock on hand (col. 8, lines 25-30). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included information relating to the inventory of an entity in order to allow the customer to know if he or she will be able to find the product desired before the making a trip to the store .

Claims 28-31 further recite well known location information such as zip code, cell base identifier, area code, identity of local radio station widely used to precisely determine a location of a device or a person. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included location

information such as zip code, cell base identifier, area code, identity of local radio station in order to obtain the above mentioned advantage.

With respect to claims 10, 33-40, Hall further teaches wherein the system is a personal digital assistant agent (PDA); a wireless modem communicating with a cellular base station, display means, Internet-capable wireless phone, a GPS receiver (col. 5, lines 38 to col. 6, lines 1-43). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a personal digital assistant (PDA); a wireless modem communicating with a cellular base station, display means, Internet-capable wireless phone because such a modification would allow the user the flexibility to use any of the known devices.

#### **(10) Response to Argument**

Appellant argues that Hall doesn't teach an indication provided to the customer of a change of proximity between the customer and the local facility and that Hall only teaches an indication to the service provider of a change in proximity between the customer and the local facility. The Examiner wants to point out that as stated by the Appellant Hall teaches giving an indication to the service provider of the customer's time of arrival at the local facility that can fulfill the order. With respect to the time of arrival being communicated to the customer. As can be seen by the alternative embodiment of Hall on col. 10, lines 7-13, Hall teaches the customer maintaining connection with service provider system (SPAS 365) and updating periodically the

Art Unit: 3622

customer's estimated time of arrival (ETA). As can seen by the alternative passage of Hall, if the estimated time of arrival is being updated and sent to the service provider system (SPAS 365) and the customer can opt to stay in direct communication with the service provider (SPAS) then it would make sense for the service provider to pass the information to the customer.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Raquel Alvarez

Conferees:

Eric Stamber

Jeff Carlson